

HOUSE BILL 2053

By Matheny

AN ACT to amend Tennessee Code Annotated, Title 55
and Title 70, relative to off-highway motor
vehicles.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 55-6-101, is amended by adding the following language as a new subsection:

(d)

(1) In addition to the registration fee collected pursuant to subsection (a)(1), except as provided in subdivision (2), an additional fee of fifty dollars (\$50.00) shall be collected for issuing a certificate of title for an off highway motor vehicle listed in § 55-3-101(c)(2). Such fee may be increased by the commissioner but no more frequently than once every twelve (12) months. In no event shall such increase exceed the increase in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics since the last increase was imposed.

(2) Such additional fee shall not be collected from an owner who certifies under oath that the off-highway motor vehicle will only be used on the private property of the person in whose name the certificate of title is issued or the private property of a relative or used exclusively for farming purposes or in the person's commercial business. As used in this section "relative" means a person or persons in the lineal line of consanguinity to a property owner, a spouse, or person or persons in the lineal line of consanguinity of a spouse, and includes an individual in an adoptive relationship to a property owner or the spouse of the property owner.

(3) The commissioner of safety shall forward the additional fee collected pursuant to subdivision (1) to the Tennessee wildlife resources agency to be used in accordance with § 70-9-106.

SECTION 2. Tennessee Code Annotated, Title 55, Chapter 6, Part 1, is amended by adding the following language as a new, appropriately designated section:

(a) Except as provided in subsection (b), for the privilege of purchasing an off-highway motor vehicle for use on lands located in this state:

(1) A dealer of off-highway motor vehicles shall collect from each person purchasing an off-highway motor vehicle a capital fee and pay the amount collected quarterly to the Tennessee wildlife resources agency; and

(2) The county clerk shall, before issuing a certificate of title on the resale between individuals of an off-highway motor vehicle, collect a capital fee from the purchaser and pay the amount collected quarterly to the Tennessee wildlife resources agency. The county court clerk may for collecting such capital fee assess a reasonable clerk's fee in addition to the capital fee.

(b) If the owner certifies under oath to the dealer or to the county clerk, as appropriate, that the off-highway motor vehicle will only be operated on the owner's private land or the private land of a relative of such person or will be used exclusively for farming purposes or in the person's commercial business the fee is waived. As used in this subsection the term "relative" is as defined in § 55-6-101(d)(2).

(c) The capital fee shall be paid on the total purchase price of the off-highway motor vehicle and in the case of a dealer, including charges for the off-highway motor vehicle, freight, dealer preparation, and documentation, but does not include charges for accessories and attachments not normally supplied by the manufacturer.

(d) The capital fee is as follows:

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|------------------------------------------|---------|
| (1) OHMVs valued at less than \$2,500 | \$25.00 |
| (2) OHMVs valued from \$2,500 to \$5,000 | \$50.00 |
| (3) OHMVs valued above \$5,000 | \$75.00 |

(e) The capital fee may be increased by the commissioner but no more frequently than once every twelve (12) months. In no event shall such increase exceed the increase in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics since the last increase was imposed.

(f) The fee collected pursuant to this section shall be used by the Tennessee wildlife resources agency to be used in accordance with § 70-9-106.

SECTION 3. Tennessee Code Annotated, Section 70-9-106, is amended by adding the following language as a new subsection:

(c) The additional fee collected pursuant to § 55-6-101(d) and Section 2 of this act shall be designated for the following purposes:

- (1) Forty-five percent (45%) of the fee shall be for trail development and acquisition;
- (2) Twenty percent (20%) of the fee shall be for trail maintenance;
- (3) Twenty percent (20%) of the fee shall be for enforcement, safety and education;
- (4) Ten percent (10%) of the fee shall be for administration; and
- (5) Five percent (5%) of the fee shall be for public awareness.

SECTION 4. Tennessee Code Annotated, Section 70-9-104, is amended by deleting the words "is authorized to" and by substituting the word "shall".

SECTION 5. Tennessee Code Annotated, Section 70-9-107(e), is amended by deleting the language “and may be prosecuted” in the first sentence and by deleting the language “and prosecution” in the second and third sentences.

SECTION 6. This act shall take effect July 1, 2007, the public welfare requiring it.